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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NELSON, ALECIA DIANE

ART UNIT	PAPER NUMBER
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2675

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DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,639

Applicant(s)

GERVASE

Examiner

Alecia D. Nelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 8/26/02 has been considered by the examiner.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "400" has been used to designate data input means, circular indicator device, and loop-shaped range. The examiner request that if the parts designated by "400" are the same, the same language should be used to describe the part in order to avoid confusion.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "42-46" and "42-44, 46, and 47" have both been used to designate areas (see Figure 4).
5. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if

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only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

6. ***Claims 4-6, 8-10, 12-14, 17, and 23-28*** are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims will be rejected on the merits as best understood by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 recites the limitation "the previously selected subset" in line 2 of limitation (e). There is insufficient antecedent basis for the limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (UK Patent No. 2,145,257) in view of Kishi (U.S. Patent No. 5,903,229).

With reference to **claims 1, 2, 9, 11, 18-20, 24**, Smith teaches a method and apparatus for allowing a user to select one of a plurality of items, the method and apparatus employing a device having a display area (24, Figures 6-8) and, separately from the display area, a data input means (Figures 1-4) which registers a selection made by the user (see abstract). Further including; displaying within the display area a number of regions (26-29) equal to the number of items (see page 3, lines 11-12); a processor (23) defining with the input means a number of sections (17-20) equal to the number of items, the arrangement of the sections corresponding to the arrangement of the regions of the display area, each section corresponding to a respective region (see page 3, lines 3-7), whereby the user can select one of the items by selecting a respective one of the sections (see page 3, 11-23). With further reference to **claims 2 and 19**, Smith teaches defining a plurality of subsets (30-33) of the regions (26), and defining a plurality of subsets (32-35) of the selected subset of regions (31) (see page 3, 11-23). With further reference to **claim 9**, Smith teaches that the number of selectable items may be too great to display them all at the same time, therefore suggesting that the sections are defined equivalent to the entire display area (see page 3, lines 54-61).

With reference to the loop-shaped range Smith teaches that that any suitable number and arrangement of micro switches and any suitable number and arrangement of items of information on the screen (see page 3, lines 28-32), and further states that

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although the rectilinear arrangement of switches and portions of the display is preferred as providing a readily observable correspondence between the positions of the switches and the elements of the display, it will be appreciated that any other suitable pattern or configuration of the switches and elements of the display may be provided (see page 3, lines 62-65). Therefore, these teachings suggest that the displayed information, as well as the switches, can have a loop-shaped arrangement. While Smith teaches that the sections (switches) includes a roller (13) to be used as the data input means (see Figure 1) which is rotatable circumferentially, there is no discussion of registering the degree of rotation independently of the selection.

Kishi teaches a jog dial emulation input device including a touch panel surface (1a) detecting the location of a fingertip of the user on the panel surface (see column 7, lines 46-51). A CPU (2) determines the rotation direction of the trace of the location of the finger and outputs the rotation direction (see column 8, lines 8-26). The CPU (11) of the mouse pad reads out an application program from a hard disk (18), stores it in the memory (12), and executes it automatically as requested by the system program, or on a command input from the mouse pad. The CPU (11) further executes the device driver to perform display on the display device (15) (see column 8, line 49-column 9, line 3).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to allow the input device of Kishi to be used with a system similar to that which is taught by Smith, thereby providing an additional alternative method and apparatus for controlling the displayed information. This allows the user to select displayed information in an easier and more accurate fashion.

With reference to **claims 3**, as explained above with reference to claims 1 and 2, Smith suggest that the regions 26-29 are provided in a pattern to correspond to the input means (see page 3, lines 4-7). The regions are displayed by partitioning the display area into a number of elements corresponding to the number of regions and displaying a region in each of the bath elements Is taught in the disclosure wherein it is stated that in any arrangement according to the invention the switches are arranged to some particular spatial configuration or pattern and the visual display has a corresponding spatial layout (see page 3, lines 41-42).

With reference to **claim 4**, Smith teaches for each possible number of regions up to a maximum, there is a predefined arrangement of that number of regions (see page 3, 29-42).

With reference to **claim 5**, Smith teaches that the regions can be arranged in any configuration, in which if the configuration is not linear, that is curved or arced, it would be obvious that the respective centers are not in a straight line.

With further reference to **claims 6, 7, 21, and 22**, according to the teachings of Smith, if the regions are configured in a nonlinear fashion, the switches will have a corresponding arrangement.

As explained above with reference to **claims 1, 2, and 18**, Smith fails to teach a contact sensitive area encircling the display area.

Kishi teaches that the jog dial is a contact sensitive apparatus, which can be operated by the finger of the user.

The motivation for combining the teachings of Kishi with the teachings of Smith is the same as that which is explained with reference to **claims 1, 2, or 18**.

With reference to **claims 8 and 23**, Smith fails to teach the functions of the data input means as described in the claim.

Kishi teaches that the CPU (2) stores coordinates of three locations of the finger tip, second previous to last, first previous to last, and last locations, in the coordinate memory (7), based on these values the CPU determines the rotation direction of the trace of these locations and thus capable of processing the input coordinates (see column 8, lines 8-27). The stored locations being consider the rest plane, wherein the direction of movement is detected by the user contacting the device to move the input means in a selected direction being clockwise or counterclockwise.

The motivation for combining the teachings of Kishi with the teachings of Smith is the same as that which is explained with reference to **claims 1, 2, and 18**.

With reference to **claim 10**, Smith teaches that the user can vary the selection of the item, and by a predetermined action make a definitive selection (see page 3, lines 11-23).

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With reference to **claims 12 and 13**, Smith teaches that on each occasion, selecting from items that are logically related to the item selected in the previous step (see Figures 6-9).

With reference to **claims 14-17**, Smith fails to teach that the items are data files, sets of data files or portions of data files, however such items are well known in the art to be a user selectable item. Wherein the data files are stored in a remote location and upon selecting a data file, the user is presented with some information about that data file, are all well known features in the art.

With reference to **claim 25**, Smith teaches that the visual display could be a cathode ray screen, LCD or LED display (see page 3, line 1-3)

With reference to **claim 26**, Kishi teaches the device as a one-piece unit (see abstract).

With reference to **claim 27**, the usage of input device in portable systems are well known in the art, and would be obvious to allow usage of that which is similar to that which is taught by Smith and Kishi as explained above.

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With reference to **claim 28**, Smith teaches that a computer program is used for controlling the visual display in the manner described in relation to the invention (see page 4, line 1-page 5, line 44).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alecia D. Nelson whose telephone number is (703) 305-0143. The examiner can normally be reached on Monday-Friday 9:30-6:00. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

adn/AND
September 20, 2004


AMR A. AWAD
PRIMARY EXAMINER